

COLONEL WILLIAM GATES.

[To accompany Bill H. R. No. 107.]

MAY 4, 1860.

Mr. CURTIS, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, to whom was referred the petition of Colonel William Gates, of the United States army, have had the same under consideration, and present the following report :

During the late war with Mexico, in 1847 and 1848, Colonel Wm. Gates was appointed and acted as commanding officer and collector of Tampico, in Mexico, during which service he collected and paid over to the United States treasury nearly a million of dollars. Among other sources of his collections was the proceeds of a confiscation and sale of the schooner Oregon and cargo, which was seized and sold for violation of some revenue or national law, said schooner having on board arms and ammunition contraband of war designed for the Mexican army. The sale of the schooner and cargo amounted to \$22,270.

Doubts have arisen as to the proper compensation due to those who participated in this confiscation, and it is to secure his fair proportion that Colonel Gates petitions Congress. It seems to have been conceded that four men were entitled to shares of the proceeds, and Colonel Gates divided accordingly as follows :

Colonel Wm. Gates, the collector, one-fourth of one-half...	\$2,783 75
Franklin Chase, deputy collector, do. do.	2,783 75
Major Forsyth, U. S. army, receiver, do. do.	2,783 75
Lieutenant Browning, naval officer, do. do.	2,783 75
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Being an equal share to each of half the proceeds.

This division seems to have been made on a supposed application of a revenue law of the United States of 1799, the ninety-first section of which gave to the collector and informer an equal moiety of such confiscations.

It is obvious this law of 1799 had no binding effect in Mexico, and could only be used as an indication of what would seem to be reasonable under the temporary government assumed by us when we conquered and governed the ports of Mexico.

In subsequent acts of Congress and the departments, in settling accounts of officers who served in collecting the revenues in Mexico, a very different rule seems to have been adopted, and Colonel Gates asks to have his accounts adjusted according to such final determination.

An act of March 3, 1849, provides that "all money raised in Mexico, by contributions or otherwise, by any officer of the United States army or navy, * * * and all moneys received by any officer, either as contributions or penalties," should be paid over, &c.; and section second provides that when an officer "shall have performed duties of collector at any of the ports of Mexico, such officer shall be allowed a compensation, which shall be assimilated in amount, as nearly as may be, including the regular pay and emoluments of such officers, to that allowed by existing laws to officers of the customs in the United States for similar services in amount and in importance, such allowance in all cases to be determined by the President of the United States."

It seems from a report of R. J. Atkinson, esq., Third Auditor, dated March 28, 1859, that President Fillmore determined to abide by the division which Colonel Gates had previously made, which confirmed to the Colonel \$2,783 75.

But subsequently the legal representatives of Lieutenant Browning applied to Congress, and in the civil appropriation act of September 30, 1850, the Secretary of the Treasury was authorized and directed to settle his (Lieutenant Browning's) claim. The Third Auditor says: "Secretary Corwin decided that Lieutenant Browning and the other officers of the Petral were acting as revenue officers, and that under the *proviso* of the 91st section of the act of 1799, they were entitled as *informers*; that one fourth of the proceeds of the vessel and cargo should go to the treasury, one fourth to the officers of the customs, and the remaining half to the officers of the Petral, in proportion to their pay. He therefore allowed Mr. Browning \$5,712 45."

It is clear that in this last act, and the finding of the treasury, the act of 1849 is superseded and a new rule instituted, which gave, under the provisions of the act of 1799, \$5,712 45 to the "informer."

The same act would, if applied to Colonel Gates, give him \$5,712 45 as "collector;" for both the "informer" and "collector" were equally entitled under the act of 1799, and the Third Auditor says Colonel Gates was the collector, and so he seems to have been regarded in all the departments in the settlement of accounts.

Colonel Gates might rest his case on these facts; and it would seem justice would prescribe to Colonel Gates a more liberal allowance, since he, Colonel Gates, was not allowed during the same time his pay as a colonel in the army, while Lieutenant Browning it is supposed received his in the navy.

Acting on this settlement with Lieutenant Browning as *res judicata*,

subsequent acts have been passed to settle with Crosby and Buckner, August 1, 1854, and they have been paid.

So also Congress passed an act for the relief of Franklin Chase, March 3, 1855, by which he was paid \$5,567 50 under a decision of Secretary Guthrie.

After so many subordinates have been paid this sum of \$5,567 50, it is, in the opinion of your committee, unfair and unjust to withhold equal compensations to the collector, and therefore they report a bill directing a settlement of the account of Colonel Wm. Gates on the same basis as that allowed his associates.

